

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL W. YOCINA d/b/a HARVEST  
MOON HYDROPONICS

Plaintiff,

**DECISION AND ORDER**

**11-CV-00519(A)(M)**

v.

HARVEST MOON INDOOR GARDENING, INC.  
and THOMAS BOBOSKY,

Defendants.

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This action has been referred to me by Order of Hon. Richard J. Arcara for supervision of pretrial proceedings in accordance with 28 U.S.C. §636(b)(1) [20].<sup>1</sup> Before me is defendants' motion to dismiss this action for lack of personal jurisdiction and improper venue [14].

At the parties' request [23], a settlement conference was held before me on February 27, 2012. At that conference, the parties reached an agreement to resolve this action, the terms of which are memorialized in the "Settlement and Phase-Out Agreement" annexed hereto. Among those terms is that the motion to dismiss be converted to a motion to transfer venue to the United States District Court for the Northern District of Ohio, Eastern Division, for entry of a Consent Order (*see* Settlement and Phase-Out Agreement, §§22-23). Motions to transfer venue are nondispositive. Anscombe Broadcasting Group, Ltd. v. RJM Communications, Inc., 2004 WL 2491641, \*1 n. 1 (W.D.N.Y. 2004) (Foschio.M.J.); O'Brien v. Gold Star Technologies, Inc., 812 F.Supp. 383 (W.D.N.Y.1993) (Heckman, M.J.).

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<sup>1</sup>

Bracketed references are to the CM/ECF docket entry.

Accordingly, pursuant to 28 U.S.C. §1404(a), it is hereby ORDERED that this action be transferred to the United States District Court for the Northern District of Ohio, Eastern Division (a district in which the action could have been brought), for entry of a Consent Order in accordance with the terms of the Settlement Agreement.

**SO ORDERED.**

DATED: February 27, 2012

/s/ Jeremiah J. McCarthy  
JEREMIAH J. MCCARTHY  
United States Magistrate Judge